

ARTICLE 20:41
CHIROPRACTORS

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CHAPTER 20:41:02
DECLARATORY RULINGS

Section

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| 20:41:02:01 | Petition for declaratory ruling <u>Procedure to obtain declaratory ruling</u> |
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20:41:02:01. ~~Petition for declaratory ruling~~ Procedure to obtain declaratory ruling.

~~Any person wishing the board, or the ethics committee, to issue its ruling as to the applicability to that person of any statutory provision or rule or order of the board may file with the board a petition in substantially the following form:~~

~~STATE OF SOUTH DAKOTA~~

~~BOARD OF CHIROPRACTIC EXAMINERS~~

~~— Pursuant to the provisions of SDCL 1-26-15, I (name of petitioner), of (address of petitioner), am (title or capacity of petitioner), and do hereby petition the Board of Chiropractic Examiners for its declaratory ruling in regard to the following:~~

~~— 1. The state statute or Board of Chiropractors rule or order in question is: (Here identify and quote the pertinent statute, rule, or order).~~

~~— 2. The facts and circumstances which give rise to the issue to be answered by the board's declaratory ruling are:~~

~~— 3. The precise issue to be answered by the board's declaratory ruling is:~~

~~— Dated at (city and state), this _____ day of _____ 20____.~~

(Signature of Petitioner)

An individual may apply for a declaratory ruling by filing a petition directed to the board which states generally the factual situation existing under which the question arises. The petition must be verified by the petitioner, except that matters not within the personal knowledge of the petitioner may be on information or belief. The petition shall identify all persons who have or

claim any interest which would be affected by the declaratory ruling. When declaratory relief is sought all persons who have or claim any interest which would be affected by the declaration shall be made parties.

20:41:02:02 ~~Action on petition.~~ **Hearings on petition to obtain declaratory ruling.**

~~Upon receipt of the petition, the board, or the ethics committee, may request from the petitioner any information it requires for the issuance of its ruling. Within 30 days following the receipt of the requested information, the board, or the ethics committee, shall issue its declaratory ruling and serve a copy of same by mail upon the petitioner.~~ A hearing on a petition for declaratory ruling may be held upon ten days written notice to all parties. The hearing must be public; testimony must be recorded on magnetic tape or by other equivalent means. At the request of any person, testimony given at such a hearing must be transcribed. The transcription expense must be borne by each person requesting a transcript. Parties may make their own provisions to have court reporters present at the hearing. Briefs may be filed by interested parties as the board may direct. Hearings shall be conducted in conformity with the provisions of SDCL 1-26-17 through SDCL 1-26-26, inclusive.

Source: 1 SDR 24, effective August 28, 1974; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 28 SDR 88, effective December 23, 2001.

General Authority: SDCL 36-5-4, 36-5-21(4).

Law Implemented: SDCL 1-26-15, 36-5-21(4).

20:41:02:03 Meetings. Decisions. ~~The board, or the ethics committee, may hold a meeting by telephone conference call to decide on any petitions filed pursuant to SDCL 1-26-13 or 1-26-15 and to conduct meetings which are not required to be public hearings.~~

The board may refuse to render or enter a declaratory ruling if such a ruling would not terminate the uncertainty or controversy giving rise to the proceeding. All decisions must be made within 30 days of final submission of the matter to the board.

Source: 12 SDR 117, effective January 19, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 28 SDR 88, effective December 23, 2001.

General Authority: SDCL 36-5-4, 36-5-21(4)

Law Implemented: SDCL 1-26-13, 1-26-15, 36-5-21(4).

20:41:02:04. Conduct of hearings. Hearings held by the board, unless otherwise required by statute, must be conducted in accordance with the provisions of SDCL 1-26.

Source:

General Authority: SDCL 36-5-4, 36-5-15.2, 36-5-21(4).

Law Implemented: SDCL 1-26-15, 36-5-21(4).

CHAPTER 20:41:04

EDUCATIONAL INSTITUTIONS

Section

20:41:04:01 Approved chiropractic schools.

20:41:04:02 Schools approved by the board of examiners.

20:41:04:03 Equivalent standards for chiropractic schools.

20:41:04:01. Approved chiropractic schools. All applicants for licensure who matriculate in a chiropractic college after October 1, 1975, must present evidence of having graduated from a chiropractic college accredited by the Council on Chiropractic Education or from a college which meets equivalent standards in § 20:41:04:03. The board hereby recognizes

the substantial equivalence of chiropractic programs/schools possessing accreditation from a chiropractic accrediting body with membership in the Council of Chiropractic Education International (CCEI). The board recognizes CCEI recognized accrediting agencies, and programs/schools accredited by those accrediting agencies as satisfying the requirements of the board for purposes of evaluating the educational background of the applicant.

Source: 1 SDR 24, effective August 28, 1974; 2 SDR 63, effective April 12, 1976; 5 SDR 8, effective August 14, 1978; 12 SDR 117, effective January 19, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-5-4.

Law Implemented: SDCL 36-5-8, 36-5-9.

Reference: "Institutions Holding Accredited Status," revised July 8, 1992, The Council on Chiropractic Education, 4401 Westown Parkway, Suite 120, West Des Moines, IA 50266. Copies may be obtained from the above address.

CHAPTER 20:41:05

APPLICATIONS FOR EXAMINATION

Section

20:41:05:01 Verified general information to be furnished by applicant for examination.

20:41:05:02 Information on education to be provided.

20:41:05:03 Verified information on other licenses and experience.

20:41:05:04 Attachments and other information in connection with application.

20:41:05:04.01 Criminal background investigation required -- Procedure – Results furnished to board.

20:41:05:05 Reciprocity.

- 20:41:05:06 Inactive status and limited practice.
- 20:41:05:07 Continuing rights.
- 20:41:05:08 Repealed.
- 20:41:05:09 Licensure examination.
- 20:41:05:10 Financial responsibility.
- 20:41:05:11 Exemption from financial responsibility.
- 20:41:05:12 Exemption from licensing requirement for a person licensed in another state.

20:41:05:03. Verified information on other licenses and experience. The applicant shall provide information on any experience or training in a hospital or care of the sick, the name of any state which previously issued a chiropractic license to the applicant, the length of time in practice, the location of practice, whether the license is in force or has been suspended, revoked, or voluntarily discontinued, ~~the name of any state chiropractic association to which the applicant belongs with length of membership,~~ and the date of issue and certificate number of any national board certificate.

Source: 1 SDR 24, effective August 28, 1974; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-5-4.

Law Implemented: SDCL 36-5-4, 36-5-10.

20:41:05:05. Reciprocity. The fee for a license granted pursuant to SDCL 36-5-13 is \$300, all but \$100 of which is refundable if license is not issued. An applicant seeking reciprocity shall include with the written application a certification from the secretary of the applicable state board of chiropractic examiners showing the date, license number, state, and ratings or record of examination of the applicant in chiropractic subjects and basic science

subjects, National Board of Chiropractic Examiners diploma and grades, including the general average received, the status of the license issued, and a recommendation concerning good moral character and the worthiness of the applicant for reciprocal recognition. An applicant seeking reciprocity shall also meet the following criteria:

- (1) Applicant has passed all parts of national boards required at the time of graduation. If the applicant graduated after January 1998, the applicant must have passed all four parts of the national boards. Within five years of applying for licensure, the applicant will have had to successfully passed an approved special purposes exam for chiropractic (SPEC) or the National Board Part IV;
- (2) Applicant has actively practiced a minimum of five years immediately preceding the submission of the application;
- (3) Applicant has no investigations pending;
- (4) Applicant has no adverse actions taken by another state board.

Source: 1 SDR 24, effective August 28, 1974; 2 SDR 63, effective April 12, 1976; 7 SDR 95, effective April 13, 1981; 12 SDR 117, effective January 19, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986; 28 SDR 88, effective December 23, 2001; 29 SDR 34, effective September 19, 2002; 32 SDR 32, effective August 31, 2005.

General Authority: SDCL 36-5-4, 36-5-13.

Law Implemented: SDCL 36-5-4, 36-5-10, 36-5-13.

CHAPTER 20:41:07

ANNUAL RENEWAL FEES

Section

- 20:41:07:01 Annual active renewal fee.
- 20:41:07:02 Annual inactive renewal fee.
- 20:41:07:03 Renewal application.

20:41:07:03 Renewal application. All licensees are required to complete a renewal application in such form as required by the board.

Source:

General Authority: SDCL 36-5-4.

Law Implemented: SDCL 36-5-14.2.

CHAPTER 20:41:10

DISCIPLINARY ACTIONS

Section

- 20:41:10:01 Board action in general.
- 20:41:10:02 Unprofessional conduct.
- 20:41:10:02.01 Solicitations.
- 20:41:10:03 Incompetence.
- 20:41:10:04 Good moral character.
- 20:41:10:05 Fraud or deception.
- 20:41:10:05.01 Disciplinary complaints.
- 20:41:10:05.02 Actions which may warrant sanctions.
- 20:41:10:05.03 Disciplinary procedures.
- 20:41:10:05.04 Procedures referred for formal hearing.
- 20:41:10:05.05 Sanctions

- 20:41:10:06 Repealed.
- 20:41:10:06.01 Judicial declaration of incompetence or involuntary commitment.
- 20:41:10:06.02 Petition by board.
- 20:41:10:06.03 Burden of proof.
- 20:41:10:06.04 Respondent's claim of illness or infirmity.
- 20:41:10:06.05 Application for reinstatement.
- 20:41:10:06.06 Doctor-patient privilege -- Waiver.
- 20:41:10:06.07 Judicial declaration of competence.
- 20:41:10:07 Suspension and probation.
- 20:41:10:08 Formal reprimands and files.
- 20:41:10:09 Board hearings -- Procedure.
- 20:41:10:10 Purpose of disciplinary committee.
- 20:41:10:11 Composition of the disciplinary committee.
- 20:41:10:12 Qualifications of disciplinary committee members.

20:41:10:05.02. Actions which may warrant sanctions. The board may impose sanctions based upon any of the following:

(1) Engaging in conduct outside the scope of chiropractic practice including any conduct or practice contrary to recognized standard of ethics of the chiropractic profession or any conduct or practice which does or might constitute a danger to the health or safety of a patient or the public or any conduct, practice, or condition which does or might impair a chiropractor's ability to safely and skillfully practice chiropractic;

(2) Failure to continue professional education or failure to participate in the required continuing education courses as provided under the provisions of chapter 20:41:08;

(3) Failure to maintain current knowledge of statutes, rules, and regulations regarding the practice of chiropractic;

(4) Failure to cooperate with and respond in writing within 15 days after personal receipt of any board or board authorized committee inquiry or investigation;

(5) Failure to maintain proper patient records on each patient. Patient records must be clear and legible and include:

(a) A description of the patient's complaint;

(b) A history;

(c) A record of diagnostic and therapeutic procedures; and

(d) A record of daily documentation which must include subjective data, objective data, assessment, and plan for the patient's care;

(6) Failure to properly train and supervise staff engaged in patient care, including permitting staff to perform patient treatment outside the doctor's presence;

(7) Conviction of a felony or misdemeanor involving moral turpitude. A copy of the record of conviction certified to by the clerk of the court entering the conviction is conclusive evidence of the conviction;

(8) Fraud, misrepresentation, or deception include the following:

(a) Practicing or attempting to practice chiropractic under a false or assumed name;

(b) Aiding, assisting, or advising another in the unlicensed practice of chiropractic;

(c) Fraud or deceit in obtaining a license to practice chiropractic;

(d) Making false or misleading statements or withholding relevant information regarding the qualifications of any individual in order to attempt to obtain a license or engage in the practice of chiropractic;

(e) Failing to report past, present, or pending disciplinary action by another licensing board or current status of final administrative disposition of a matter. A licensee is required to report any compromise or settlement of disciplinary action, whether voluntary or involuntary, which results in encumbrance of licensure;

(f) Making or filing a report which the licensee knows to be false, intentionally or negligently failing to file a report or record required by state or federal law, or willfully impeding or obstructing another person to do so; or

(g) Submitting to any insurer or third-party pay or a claim for a service or treatment which was not actually provided to a patient;

(9) Habitual intemperance in the use of intoxicants or controlled substances to such an extent as to incapacitate the person from the performance of professional duties;

(10) Exercising influence on the patient or client for the purpose of financial gain of the licensee or a third party;

(11) Improperly interfering with an investigation or inspection authorized by statute or under the provisions of article 20:41 or with any disciplinary proceeding;

(12) Repeated violations of this chapter; ~~or~~

(13) Receiving three or more negative peer reviews within any twelve-month period; or

(14) Violation of 20:41:09

Source: 25 SDR 80, effective December 6, 1998; 28 SDR 88, effective December 23, 2001; 32 SDR 32, effective August 31, 2005.

General Authority: SDCL 36-5-4, 36-5-15.2(1), 36-5-20(4).

Law Implemented: SDCL 36-5-4, 36-5-15.2(2), 36-5-20(4).

20:41:10:05.04. Procedures referred for formal hearing. A formal hearing may be conducted by the board, or a hearing examiner, pursuant to SDCL chapter 1-26, ~~in the following manner, to wit:~~

~~(1) Notice to the chiropractic physician complained against shall be given by the investigating member of the board in writing, by certified mail with return receipt requested. The notice shall state the time, place, and date of the hearing at which the complaint will be considered. The notice shall further contain a statement requiring the attendance of the chiropractic physician and shall be given at least 15 days prior to the date of the hearing;~~

~~(2) A transcript shall be kept by a court reporter;~~

~~(3) The chair of the board, or a hearing examiner pursuant to SDCL 1-26-18.3, shall conduct the hearing with at least a quorum of the board present;~~

~~(4) Procedurally, after advising the accused chiropractic physician of the physician's right to be heard, to offer witnesses on the physician's behalf, to be represented by counsel and to have a record kept, the hearing shall be conducted as follows:~~

~~(a) The complainant or physician's witnesses, with cross examination by the accused chiropractic physician or physician's counsel, shall testify;~~

~~(b) The accused chiropractic physician, after being duly sworn, or the physician's counsel, may make a statement;~~

~~(c) The board or its counsel shall question the accused chiropractic physician;~~

~~(d) Any witnesses on behalf of the accused chiropractic physician shall testify after being sworn. Each witness shall be questioned first by the accused chiropractic physician or the physician's counsel and thereafter by the board or its counsel;~~

~~(e) The board or its counsel may ask additional questions;~~

~~(f) The accused chiropractic physician or the physician's counsel may make a closing statement with time limit set by the board chair;~~

~~(g) The above rights also apply to proceedings before a hearing examiner, with proposed findings, conclusions, and decision being forwarded to the board in accordance with SDCL 1-26 and this article;~~

~~(h) The board shall discuss the matter off the record and out of hearing of the accused chiropractic physician;~~

~~(i) The board shall render its determination and impose any sanctions, in accordance with SDCL 1-26-25 and the provisions of chapter 20:41:10, as determined appropriate by the board; and~~

~~(j) The accused chiropractic physician or physician's counsel shall have 20 days to object to the board determinations or sanctions. Written objections shall be filed with the secretary of the board. The secretary shall forward a copy of the objections to each board member for the member's consideration. Within a reasonable time, the board shall enter its decision regarding the objections and notify the accused chiropractic physician of any revisions or changes in the determination or sanctions;~~

~~(5) Settlement or compromise of the matter may be discussed at any stage of the proceedings; and~~

~~(6) Judicial review of the board's action is available pursuant to SDCL 1-26-30.~~

Source: 25 SDR 80, effective December 6, 1998; 28 SDR 88, effective December 23, 2001; 33 SDR 66, effective October 23, 2006.

General Authority: SDCL 36-5-4, 36-5-15.2(1), 36-5-20(4).

Law Implemented: SDCL 36-5-4, 36-5-15.2(2), 36-5-17, 36-5-20(4).

20:41:10:05.05. Sanctions. The board may impose any of the following sanctions or a combination thereof:

- (1) ~~Private~~ Formal reprimand;
- ~~(2) Public reprimand;~~
- ~~(3)~~ Probation of license to practice chiropractic in the state of South Dakota;
- ~~(4)~~ Suspension of license to practice chiropractic in the state of South Dakota;
- ~~(5)~~ Revocation of license to practice chiropractic in the state of South Dakota; or
- ~~(6)~~ Restitution and payment of all expenses of the investigation and proceedings.

Any sanction imposed by the board upon a licensee must be reported to the central reporting agency of which the board is currently a member at the time of the imposition of the sanction for the purpose of disseminating sanctioning information to licensing boards of other states.

Source: 25 SDR 80, effective December 6, 1998; 28 SDR 88, effective December 23, 2001; 29 SDR 34, effective September 19, 2002.

General Authority: SDCL 36-5-2.2, 36-5-4, 36-5-15.2(1), 36-5-16, 36-5-16.1.

Law Implemented: SDCL 36-5-4, 36-5-15.2(2), 36-5-16, 36-5-16.1. 1-26-29.1.

CHAPTER 20:41:13

CHIROPRACTIC RADIOGRAPHY

Section

- 20:41:13:01 Definition of terms.
- 20:41:13:02 Minimum eligibility requirements.
- 20:41:13:03 Training requirements.
- 20:41:13:04 Exemptions to requirements.

20:41:13:05 Qualification by endorsement.
20:41:13:06 Approval of programs -- Application.
20:41:13:07 Application for registration.
20:41:13:08 Examination and proficiency evaluation.
20:41:13:09 Fee for certificate of registration -- Renewal.
20:41:13:10 Exemption for chiropractors.
20:41:13:11 ~~Disciplinary actions~~ Board action in general.
20:41:13:12 Procedures for formal hearing.
~~20:41:13:12~~ 13 Continuing education.

20:41:13:08. Examination and proficiency evaluation. An applicant for registration as a chiropractic radiographer shall, unless exempt, pass a written examination administered by the board ~~and shall present to the board written documentation from a South Dakota licensed chiropractor attesting to the clinical proficiency of the applicant based on observation of at least one month.~~ The passing grade for the examination is 75.

Source: 12 SDR 117, effective January 19, 1986; 12 SDR 151, 12 SDR 155, effective July 1, 1986.

General Authority: SDCL 36-5-15.2, 36-5-15.3.

Law Implemented: SDCL 36-5-15.2, 36-5-15.3.

20:41:13:11. ~~Disciplinary actions~~ Board action in general. ~~A chiropractic radiographer may be disciplined by the board as provided by chapter 20:41:10 for having violated § 20:41:10:02, 20:41:10:05, or the provisions of SDCL 36-5 and may be placed on inactive status or suspension for disability as defined in chapter 20:41:10.~~ Disciplinary procedures shall

be initiated by submission of a written complaint or by resolution of the board. A chiropractic radiographer may be disciplined by the board as provided by chapter 20:41:13 for having violated the provisions of this chapter or the provisions of SDCL 36-5 and may be placed on inactive status or suspension for disability as defined in chapter 20:41:10. Disciplinary procedures shall be conducted as follows:

(1) Each written complaint for disciplinary investigation shall be given to the board investigator or the disciplinary committee. The investigator shall forward a copy of the complaint to each committee member and shall investigate and prepare a report to be presented to the committee;

(2) The investigator shall notify the chiropractic radiographer that a complaint has been received and request a response to be mailed to the investigator within 15 days of receipt of the notice.

(3) The investigator shall notify the complainant that the chiropractic radiographer has been notified of the allegations and requested to respond within 15 days and that the response shall be forwarded to the complainant;

(4) The investigator shall prepare a report to present to the full committee for review. The report shall include the identity of the complainant, the allegations which form the basis of the complaint, the position of the chiropractic radiographer against whom the complaint is lodged, and the proposed action, if any, that should be taken with regards to the complaint;

(5) Upon presentation of the report to the full committee, the committee shall review the report and act upon the information before it, in one of the following manners:

(a) Dismiss the complaint if frivolous or clearly unfounded in fact; or

(b) Initiate an informal inquiry or take such further action as the committee deems appropriate;

(6) If the committee dismisses the complaint, the investigator shall give notice to the complainant and the chiropractic radiographer that the complaint has been reviewed with the determination that no board action is warranted;

(7) If the committee finds the complaint to have merit, the committee shall afford the chiropractic radiographer complained against a reasonable opportunity to state the radiographer's position with respect to the allegations against them. The hearing shall take the form of an informal conference between the committee and the chiropractic radiographer complained against; and

(8) After an informal inquiry, the committee may dismiss or, if the complaint has merit, refer to the full board for a formal hearing. In lieu of referral to the full board, the committee and the chiropractic radiographer may enter a remedial stipulation satisfactory to both the chiropractic radiographer and the committee. In that event, the referral shall not take place if the terms of the remedial stipulation are successfully completed.

20:41:13:12 Procedures for formal hearing. A formal hearing may be conducted by the board, or a hearing examiner, pursuant to SDCL chapter 1-26.

20:41:13:1213. Continuing education. As a condition to renewing a certificate, a chiropractic radiographer must receive six hours of continuing education every three years as approved by the board as set forth in § 20:41:13:06. Continuing education hours must be submitted to the executive secretary of the board for approval before a certificate will be renewed.

Source: 28 SDR 88, effective December 23, 2001.

General Authority: SDCL 36-5-4, 36-5-15.3.

Law Implemented: SDCL 36-5-15.3.

CHAPTER 20:41:14

PEER REVIEW

Section

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| 20:41:14:01 | Definitions. |
| 20:41:14:02 | Purpose of peer review committee. |
| 20:41:14:03 | Composition of peer review committee. |
| 20:41:14:04 | Qualifications of peer review committee. |
| 20:41:14:05 | Requests for peer review. |
| 20:41:14:06 | Procedures for peer review. |
| 20:41:14:07 | Materials utilized for peer review. |
| 20:41:14:08 | Fees for peer review. |

20:41:14:07. Materials utilized for peer review. The peer review committee shall use the following materials:

(1) If conducting any review of chiropractic services, the *Guidelines for Chiropractic Quality Assurance and Practice Parameters*, Proceedings of the Mercy Center Consensus Conference, for review of chiropractic quality assurance; and Richard E. Olson's *Procedural Utilization Facts for Chiropractic/Physical Therapy Treatment Standards*, a Reference Guide, 5th Edition, for review of treatment parameters;

(2) If conducting a review concerning workers' compensation, the materials in subdivision (1) and the treatment guidelines for workers' compensation developed and adopted pursuant to article 47:03; and

(3) In reviewing any concern about the cost of chiropractic services, the one hundred seventy-fifth percentile of the HCFA Participating Provider Base (South Dakota).

Source: 25 SDR 80, effective December 6, 1998; 28 SDR 88, effective December 23, 2001; 32 SDR 32, effective August 31, 2005.

General Authority: SDCL 36-5-4, 36-5-15.2(3), 36-5-19.

Law Implemented: SDCL 36-5-4, 36-5-15.2(3), 36-5-19.

References: Procedural/Utilization Facts, 5th Edition, Richard Olson, D.C. Copies may be obtained from the Chiropractic Board of Examiners Office, ~~2603 Ella Lane~~ 407 Belmont Avenue, Yankton, SD 57078. Cost: \$89.

Guidelines For Chiropractic Quality Assurance and Practice Parameters, 1993. Copies may be obtained from Jones and Bartlett Publishers www.alliedhealth.jbpub.com. Cost: \$79.95.

The HCFA Participating Provider Base may be found at **CMS, Centers for Medicare and Medicaid Services** www.cms.hhs.gov/providers/pufdownload/99carr.asp ~~www.cms.hhs.gov~~ (South Dakota).

NEW CHAPTER

CHAPTER

CHIROPRACTIC ASSISTANT

Section

Definition of terms.

Minimum training requirements.

Exemptions to requirements.

Qualification by endorsement.

Course approval requirements - - application.

Approval of programs.

Application for registration.

Examination and proficiency evaluation.

Fee for certificate of registration -- Renewal.

Continuing education.

Supervision by chiropractors.

Disciplinary actions.

Board action in general.

Grounds for denial, revocation, or suspension of license, certification, or application.

Disciplinary procedures.

Procedures referred for formal hearing.

Definition of terms. Terms used in this chapter mean:

(1) "Board," the Board of Chiropractic Examiners;

Source:

General Authority: SDCL 36-5-4, 36-36-24, 36-5-25

Law Implemented: SDCL 36-5-4, 36-36-24, 36-5-25

Minimum training requirements. An applicant for registration as a chiropractic assistant shall meet the following minimum requirements:

(1) Graduation from high school or graduate equivalency degree (GED);

(2) Attainment of 18 years of age;

- (3) Successful completion of an approved program or course of study consisting of at least 20 hours in chiropractic assisting which includes coursework in basic chiropractic assistant duties, introduction to physiotherapy, use of modalities, rehabilitation and exercise programs as designed by the chiropractor, evaluations and other programs as designated by the board; and
- (4) Certification in cardiopulmonary resuscitation (CPR).

Source:

General Authority: SDCL 36-5-24, 36-5-25

Law Implemented: SDCL 36-5-24, 36-5-25

Exemptions to requirements. An applicant may apply for certification based on verification of at least two years employment as a chiropractic assistant and evidence of having passed an examination approved by the board

Source:

General Authority: SDCL 36-5-25, 36-5-27

Law Implemented: SDCL 36-5-25, 36-5-27

Qualification by endorsement. A person who has a current certificate as a chiropractic assistant issued by another state, jurisdiction, agency, or nationally recognized professional registry or board may, upon presentation of the certificate to the board, be considered to meet the requirements of this chapter provided that the board finds that the standards and procedures for qualification in the state, jurisdiction, agency, or nationally recognized professional registry or board which issued the certificate are equivalent to the standards in this chapter.

Source:

General Authority: SDCL 36-5-25, 36-5-27

Law Implemented: SDCL 36-5-25, 36-5-27

Information required for course approval. A sponsor seeking approval of an education course shall submit the following information:

- (1) Name, outline, and objective(s) of the course;
- (2) Sponsor's name;
- (3) Hours of study;
- (4) Names, educational background, and experience of instructors;
- (5) Name of certifying officer and method used;
- (6) Textbooks and equipment used or required;
- (7) Whether the course is approved by any accrediting agency; and
- (8) A course outline.

Source:

General Authority: SDCL 36-5-25, 36-5-27

Law Implemented: SDCL 36-5-25, 36-5-27

Approval of courses. The board shall review the information concerning an education course provided under § _____ and may grant or deny approval based on the following:

- (1) Sponsorship of the course;
- (2) The qualifications and experience of the instructor; and
- (3) The applicability of the subject matter to the practice of chiropractic assisting.

Source:

General Authority: SDCL 36-5-25, 36-5-27

Law Implemented: SDCL 36-5-25, 36-5-27

Application for chiropractic assistant certification. Each qualified person shall apply for certification to the board within 90 days following the effective date of this chapter. The application shall be made on a form furnished by the board and shall be filled out completely. The application shall contain a statement that the requirements of this chapter of rules have been read and understood by the applicant and shall document the training, experience, and education that qualify the applicant to become a chiropractic assistant.

Source:

General Authority: SDCL 36-5-24

Law Implemented: SDCL 36-5-24

Examination and proficiency evaluation. An applicant for certification as a chiropractic assistant shall present evidence of having passed an examination approved by the board with a score of at least 75 percent. If the chiropractic assistant does not achieve a score of 75 percent, the examiner must advise the chiropractic assistant of the areas failed. The assistant may have two additional opportunities to successfully complete the evaluation, not to exceed a total of three attempts in any two year period.

Source:

General Authority: SDCL 36-5-25, 36-5-27

Law Implemented: SDCL 36-5-25, 36-5-27

Fee for certificate of registration -- Renewal. The board shall issue a certificate of registration upon payment of a fee of \$50 for initial registration upon completion of all requirements outlined in § _____. After the initial registration, each person registered as a chiropractic assistant shall submit an annual renewal fee of \$25. The registrant shall display a current certificate in each office in which they work

Source:

General Authority: SDCL 36-5-24

Law Implemented: SDCL 36-5-24

Continuing education. As a condition to renewing a certificate, a chiropractic assistant must complete a minimum of six hours of continuing education approved by the board as set forth in § 20:41:15:06 every three years. The period shall begin on January 1 2009. Continuing education hours must be submitted to the executive director of the board for approval before a certificate will be renewed.

Source:

General Authority: SDCL 36-5-25

Law Implemented: SDCL 36-5-25

Supervision by chiropractor. A certified chiropractic assistant shall be under the direct supervision of a South Dakota licensed chiropractor at all times. Direct supervision means the personal presence and availability of the supervising chiropractor at the place where chiropractic healthcare services are rendered.

Source:

General Authority: SDCL 36-5-27

Law Implemented: SDCL 36-5-27

Board action in general. The board, through a designated investigator or the disciplinary committee, shall promptly investigate all complaints filed in writing with the board or the disciplinary committee and violations which come to the attention of one or more board members. The board shall impose appropriate sanctions as established under this chapter to protect the public health, safety, and welfare of the state of South Dakota. The board may also initiate disciplinary proceedings by resolution.

Source:

General Authority: SDCL 36-5-28

Law Implemented: SDCL 36-5-28

Grounds for denial, revocation, or suspension of license, certification, or application.

The board may deny an application for certification or it may deny, revoke, or suspend a certificate and it may take other disciplinary or corrective action it considers appropriate in addition to or in lieu of such an action upon proof that the applicant or certificate holder has:

- (1) Committed fraud, deceit, or misrepresentation in procuring or attempting to procure certification;
- (2) Been convicted of a felony. The conviction of a felony means the conviction of any offense which, if committed within the State of South Dakota, would constitute a felony under its laws;
- (3) Engaged in the practice of chiropractic assisting under a false or incorrect name or under a fictitious name or impersonated another certificate holder of a like or different name;
- (4) Become addicted to or dependent on alcoholic beverages or controlled drugs as

defined by chapter 34-20B to such an extent as to result in incapacitation from the performance of professional duties;

(5) Negligently, willfully, or intentionally acted in a manner inconsistent with the health or safety of persons entrusted to his or her care;

(6) Failed to report past, present, or pending disciplinary action by another licensing board or current status of final administrative disposition of a matter. A licensee is required to report any compromise or settlement of disciplinary action, whether voluntary or involuntary which results in encumbrance of certification;

(7) Violated any provisions of this chapter or the rules promulgated under it;

(8) Aided or abetted an uncertified person to practice as a chiropractic assistant;

(9) Engaged in the practice of chiropractic assisting during a time his or her license or certificate is lapsed, on inactive status, suspended, or revoked; or

(10) Been guilty of incompetence or unprofessional or dishonorable conduct.

Source:

General Authority: SDCL 36-5-28

Law Implemented: SDCL 36-5-28

Disciplinary procedures. Disciplinary procedures shall be initiated by submission of a written complaint or by resolution of the board. A chiropractic assistant may be disciplined by the board as provided by chapter 36-5-28 for having violated the provisions of this chapter or the provisions of SDCL 36-5 and may be placed on inactive status or suspension for disability as defined in chapter 36-5. Disciplinary procedures shall be conducted as follows:

(1) Each written complaint for disciplinary investigation shall be given to the board investigator or the disciplinary committee. The investigator shall forward a copy of the complaint

to each committee member and shall investigate and prepare a report to be presented to the committee;

(2) The investigator shall notify the chiropractic assistant that a complaint has been received and request a response to be mailed to the investigator within 15 days of receipt of the notice.

(3) The investigator shall notify the complainant that the chiropractic assistant has been notified of the allegations and requested to respond within 15 days and that the response shall be forwarded to the complainant;

(4) The investigator shall prepare a report to present to the full committee for review. The report shall include the identity of the complainant, the allegations which form the basis of the complaint, the position of the chiropractic assistant against whom the complaint is lodged, and the proposed action, if any, that should be taken with regards to the complaint;

(5) Upon presentation of the report to the full committee, the committee shall review the report and act upon the information before it, in one of the following manners:

(a) Dismiss the complaint if frivolous or clearly unfounded in fact; or

(b) Initiate an informal inquiry or take such further action as the committee deems appropriate;

(6) If the committee dismisses the complaint, the investigator shall give notice to the complainant and the chiropractic assistant that the complaint has been reviewed with the determination that no board action is warranted;

(7) If the committee finds the complaint to have merit, the committee shall afford the chiropractic assistant complained against a reasonable opportunity to state the assistant's position with respect to the allegations against the assistant. The hearing shall take the form of an

informal conference between the committee and the chiropractic assistant complained against;
and

(8) After an informal inquiry, the committee may dismiss or, if the complaint has merit, refer to the full board for a formal hearing. In lieu of referral to the full board, the committee and the chiropractic assistant may enter a remedial stipulation satisfactory to both the chiropractic assistant and the committee. In that event, the referral shall not take place if the terms of the remedial stipulation are successfully completed.

Source:

General Authority: SDCL 36-5-28

Law Implemented: SDCL 36-5-28

Procedures referred for formal hearing. A formal hearing may be conducted by the board, or a hearing examiner, pursuant to SDCL chapter 1-26.

Source:

General Authority: SDCL 36-5-28

Law Implemented: SDCL 36-5-28